

§ 39.95

by individuals with mobility disabilities, unless you can demonstrate that a device cannot be operated on board the vessel consistent with legitimate safety requirements you have established for the vessel.

(2) In determining whether a particular other power-driven mobility device can be allowed on a specific vessel as a reasonable modification under paragraph (b)(1) of this section, the PVO must consider:

(i) The type, size, weight, dimensions, and speed of the device;

(ii) The vessel's volume of pedestrian traffic (which may vary at different times of the day, week, month, or year);

(iii) The vessel's design and operational characteristics (*e.g.*, the size and balance requirements of the vessel, the density and placement of stationary devices, and the availability of storage for the device, if requested by the user);

(iv) Whether legitimate safety requirements can be established to permit the safe operation of a device in the specific vessel; and

(c)(1) As a PVO subject to Title III of the ADA, you must not ask an individual using a wheelchair or other power-driven mobility device questions about the nature and extent of the individual's disability.

(2) You may ask a person using an other power-driven mobility device to provide a credible assurance that the mobility device is required because of the person's disability. In response to this inquiry, you must accept the presentation of a valid, State-issued disability parking placard or card, or State-issued proof of disability as a credible assurance that the use of the other power-driven mobility device is for the individual's mobility disability. In lieu of a valid, State-issued disability parking placard or card, or State-issued proof of disability, a PVO shall accept as a credible assurance a verbal representation not contradicted by observable fact, that the other power-driven mobility device is being used for a mobility disability.

(d) As a PVO subject to Title II of the ADA, you must follow the requirements of paragraphs (a) through (c) of this section. In addition, any restric-

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tion you impose on the use of an other powered mobility device on your vessel must be limited to the minimum necessary to meet a legitimate safety requirement. For example, if a device can be accommodated in some spaces of the vessel but not others because of a legitimate safety requirement, you could not completely exclude the device from the vessel.

(e) As a PVO, you are not required to permit passengers with a disability to bring wheelchairs or other powered mobility devices into lifeboats or other survival craft, in the context of an emergency evacuation of the vessel.

§ 39.95 May PVOs limit their liability for loss of or damage to wheelchairs or other assistive devices?

Consistent with any applicable requirements of international law, you must not apply any liability limits with respect to loss of or damage to wheeled mobility assistive devices or other assistive devices. The criterion for calculating the compensation for a lost, damaged, or destroyed wheelchair or other assistive device is the original purchase price of the device.

Subpart G—Complaints and Enforcement Procedures

§ 39.101 What are the requirements for providing Complaints Resolution Officials?

(a) As a PVO, you must designate one or more Complaints Resolution Officials (CROs).

(b) You must make a CRO available for contact on each vessel and at each terminal that you serve. The CRO may be made available in person or via telephone, if at no cost to the passenger. If a telephone link to the CRO is used, TTY or TRS service must be available so that persons with hearing impairments may readily communicate with the CRO. You must make CRO service available in the language(s) in which you make your other services available to the general public.

(c) You must make passengers with a disability aware of the availability of a CRO and how to contact the CRO in the following circumstances:

(1) In any situation in which any person complains or raises a concern with